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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,143	10/23/2003	Kulvir Singh Bhogal	AUS920030492US1	9523
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IBM CORP. (AVE) C/O LAW OFFICE OF ANTHONY ENGLAND PO BOX 5307 AUSTIN, TX 78763-5307			EXAMINER KUMAR, ANIL N	
			ART UNIT 2174	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/692,143

Applicant(s)

BHOGAL, KULVIR SINGH

Examiner

Anil N. Kumar

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 8 Aug 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 8 and 10-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8 and 10-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This action is in response to the amendment filed on August 8th, 2007. Claims (8 and 10-21) are pending and have been considered below.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 8 and 10-21 are rejected under 35 U.S.C. 102(b) as being unpatentable over Cheng et al. (US 6,151,643).

Claims 8 and 15: Cheng et al. disclose an apparatus for deploying/updating software, comprising;

- A processor (service provider computer system 102, Fig. 1);
- A memory for storing program instructions executable on the processor to perform the steps of:
  - providing a Web site on a computer system coupled to a network for presenting a user with an interface, wherein the computer system has an array of pre-built, post-load images/executables stored thereon for

combinations of hardware and the software that the user may select (i.e. ... system for updating diverse software products... col 6 lines 11-30 and Fig. 1), the respective post-load images being substantially identical to respective images resulting on a target computer system hard drive from an installation process of corresponding pre-load images, so that the respective post-load images include software application configuration information, files from the corresponding pre-load images, and links to drivers for hardware of the target system (software update information includes applications, binary files, text files, and the like, col 6 lines 31-40);

- receiving from the user a selection of software applications for deploying to a target computer system; (i.e. ...user may select one or more software products ... col 8 line 21-31 and Fig. 4 under Application select box) ;
- receiving from the user a selection of hardware for the target system and responsively determining what drivers correspond to the indicated hardware; (i.e. ...user may select one or more software products ... col 8 line 21-31 and Fig. 4 under Application/Driver select box) ;
- and selecting a certain one of the post-load images, wherein the selected image has the software applications selected by the user and the drivers for the hardware selected by the user (i.e. ... displays the list of applicable software... col 7 lines 62-64 and Fig. 4);
- receiving a first order from the user for the certain image of the selected software applications deployable to the target system hardware, including a

selection by the user of a method for delivery of the selected image; (i.e. ...  
for each selected software update... col 8 lines 32-36 and Fig. 5);

- and sending the user a loading utility with the selected image, wherein such a loading utility enables transferring the post-load image to the target computer system (i.e...., client application downloads the software updates... col 8 lines 36-43) without relying on the target computer system having an operating system shell or boot diskette (i.e. sending a physical media to the client, like preconfigured OS with applications that can be installed manually).

Claim 16: Cheng et al. disclose a method for deploying/updating software, as in claim 15 above. Furthermore, Cheng et al. disclose

- receiving a first order from the user for the certain image of the selected software applications deployable to the target system hardware, including a selection by the user of a method for delivery of the selected image; (i.e. ...  
for each selected software update... col 8 lines 32-36 and Fig. 5)
- and sending the user a loading utility with the selected image, wherein such a loading utility enables transferring the post-load image to the target computer system (i.e...., client application downloads the software updates... col 8 lines 36-43) without relying on the target computer system having an operating system shell or boot diskette (i.e. sending a physical media to the client, like preconfigured OS with applications that can be installed manually).

Claims 10 and 17: Cheng et al. disclose a method for deploying/updating software, as in claims 8 and 16 above, respectively. Furthermore, Cheng et al. disclose wherein the sending of the loading utility with the selected image further includes sending the loading utility on bootable media, and wherein the utility further includes instructions for causing the target system to transfer the image to a hard drive of the target system responsive to the target system booting to the utility on the bootable media when the target system is turned on (i.e., client application performs the installation, executing any necessary decompression, installation, or setup applications necessary to install... col 9 lines 3-10 and Fig. 2).

Claims 11 and 18: Cheng et al. disclose a method for deploying/updating software, as in claims 8 and 16 above, respectively. Furthermore, Cheng et al. disclose

- maintaining a record of the order for the software applications and drivers included in the certain image that is sent, wherein the record is associated with an order identifier and user identifier; (i.e. ... specifies one exemplary schema of the user profile database... col 10 lines 33-44 and Fig. 14)
- receiving a second order for the user, including the user or order identifier; retrieving the record for the first order responsive to the user or order identifier; (i.e. ... user logs in... to determine the list of installed software products... col 7 lines 11-56 and Fig. 2)

- presenting a list of the software applications and drivers included in the certain image that was sent for the first order; (i.e. ... displays the list of applicable software... col 7 lines 62-64 and Fig. 2)
- and receiving a selection indicating ones of the software programs of the first order to update for the second order or indicating software programs for the second order in addition to those of the first order. (i.e.... for selected software client software performs an installation... col 8 lines 32-33)

Claims 12 and 19: Cheng et al. disclose a method for deploying/updating software, as in claims 8 and 16 above, respectively. Furthermore, Cheng et al. disclose

- maintaining a record of the order for the software applications and drivers included in the certain image that is sent, wherein the record is associated with an order identifier and user identifier; (i.e. ... specifies one exemplary schema of the user profile database... col 10 lines 33-44 and Fig.14)
- receiving a second order for the user, including the user or order identifier; retrieving the record for the first order responsive to the user or order identifier; (i.e. ...user logs in... to determine the list of installed software products... col 7 lines 11-56 and Fig. 2)
- and presenting, responsive to the user or order identifier, a list of suggested updates for the software programs of the first order (i.e. ...illustrates a sample

user interface display of applicable software updates... col 7 lines 64-66  
and Fig. 4)

Claims 13 and 20: Cheng et al. disclose a method for deploying/updating software, as in claims 8 and 16 above, respectively. Furthermore, Cheng et al. disclose

- maintaining a record of the order for the software applications and drivers included in the certain image that is sent, wherein the record is associated with an order identifier and user identifier; (i.e. ... specifies one exemplary schema of the user profile database... col 10 lines 33-44 and Fig.14)
- receiving a second order for the user, including the user or order identifier; retrieving the record for the first order responsive to the user or order identifier; (i.e. ...user logs in... to determine the list of installed software products... col 7 lines 11-56 and Fig. 2)
- and presenting, responsive to the user or order identifier, a list of suggested updates for the software programs for the second order in addition to first order (i.e. ...illustrates a sample user interface display of applicable software updates... col 7 lines 64-66 and Fig. 4. Note the repetitive nature of the flow diagram in Fig. 2, that clearly demonstrates the process for second or third time the user is requesting updates.)



Claims 14 and 21: Cheng et al. disclose a method for deploying/updating software, as in claims 8 and 16 above, respectively. Furthermore, Cheng et al. disclose

- maintaining a record of the order for the software applications and drivers included in the certain image that is sent, wherein the record is associated with an order identifier and user identifier; (i.e. ... specifies one exemplary schema of the user profile database... col 20 lines 33-44 and Fig.14)
- receiving a second order for the user, including the user or order identifier (i.e. ...user logs in 201..., Fig. 2) ;
- retrieving the record for the first order responsive to the user or order identifier; (i.e... to determine the list of installed software products... col 7 lines 11-56 and Fig. 2)
- receiving user information that informs the computer system about needs of the user; (i.e. see Figs. 3 and 13a-13e)
- maintaining a profile of the user, wherein the profile is associated with the user identifier and the received user information; (i.e. ... specifies one exemplary schema of the user profile database ... col 20 lines 33-59 and Fig. 14)
- and presenting, responsive to the user information, a list of suggested updates for the software programs of the first order or a list of suggested software programs for the second order in addition to those of the first order

(i.e. ... the user may limit the list to only those software products that need updating... col 8 lines 10-20 and Figs. 2 ,4)

### ***Response to Arguments***

4. Applicant's arguments filed on August 8<sup>th</sup>, 2007 have been fully considered but they were found not persuasive.

5. Applicant argues, "Cheng does not teach or suggest that a first computer system presents user with an interface for selecting an array of pre-built, post-load images stored thereon for combinations of hardware and software". The examiner respectfully disagrees. Cheng discloses a first computer system (service provider computer system 102, Fig.1) which presents user (client computer 101, Fig. 1) with an interface for selecting an array or pre-built, post-load images stored thereon for combinations of hardware and software (Figs. 4-6). As can be seen from Fig. 1, Cheng's system provides interface to access software products manufactured by diverse, unrelated software vendors. Therefore it is clearly possible for one of these vendors to provide a product that is pre-built, post-load image for a specific platform, as Cheng's system can also analyze the client computer or prompt the client to provide the necessary information.

6. Applicant argues, "a post-load image is not the same as a 'software application'". The examiner respectfully disagrees. A post-load image, as described by the applicant (software application configuration information, files from the corresponding pre-load images, and links to drivers for hardware of target system) is still an image, just like any software product. Based on the type of software product, such as, an operating system, which may be bundled with hardware drivers, or application software, which may include configuration files, or for special deployment, any combination of all the necessary software may as well be packaged together.

7. Applicant argues, "Cheng does not meet the limitations, sending the user a loading utility with the selected image, wherein such a loading utility enables transferring the post-load image to the target computer system without relying on the target computer system having an operating system shell or boot diskette". The examiner respectfully disagrees. Cheng clearly anticipates the need to install software products on a stand-alone computer, and teaches the use of computer readable media, such as a CD-ROM, diskette, 8mm tape. (col 13 lines 40-45)

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil N. Kumar whose telephone number is (571) 270-1693. The examiner can normally be reached on Wednesdays and alternate Mon-Tue and Thu-Fri EST (Alternate Mon-Tue and Thu-Fri off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

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applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ANK

8/13/2007

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